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IN THE

Supreme Court of the United States

OCTOBER TERM, 1962

No. 63

ALLIED PAINT & COLOR WORKS, INC.,

Petitioner,

—against—

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM FOR PETITIONER IN RESPONSE TO MEMORANDUM OF RESPONDENT

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1962

No. 774

ALLIED PAINT & COLOR WORKS, INC.,

Petitioner,

—against—

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM FOR PETITIONER IN RESPONSE TO MEMORANDUM OF RESPONDENT

In its memorandum in response to the petition for a writ of certiorari herein, the respondent has conceded the importance of petitioner's claims and the importance of the questions presented in this case, and has stated, "we do not oppose grant of the petition herein". However, respondent then states that the record in No. 529 (*United States v. Carlo Bianchi and Company, Inc.*, certiorari granted on December 17, 1962) has been printed and that "briefing is in progress", and that the "Court may therefore wish to defer action on the petition herein pending its decision on the merits in No. 529."

On February 27, 1963, two days after petitioner's counsel received the foregoing memorandum, he telephoned the office of the Clerk of this Court and learned that No. 529 is tentatively scheduled for argument before the Court during the April 1963 sessions of the Court, during either of the weeks of April 15th or April 22nd.

It is petitioner's position that the writ of certiorari should be granted in this case and the case then set for full briefing and oral argument. Petitioner does not at all agree with respondent's characterization of the questions involved in this case as described by it in the foregoing memorandum,[1] and respectfully refers the Court to the petition herein for a full, fair and complete statement of these questions.

In the interest of a complete submission of the important questions involved in both this case and No. 529, we believe that certiorari should be granted herein and that the argument of No. 529 should be deferred until the October 1963 Term, when both cases should be argued, one following the other.

Respectfully submitted,

ROBERT D. WITTE
Counsel for Petitioner

DANIEL H. GREENBERG
Of Counsel

February 27, 1963

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[1] "*i.e.* whether a district court (or the Court of Claims) reviewing the administrative ruling of one of the contract dispute boards should grant a trial *de novo* and take testimony or whether it should confine itself to the record made before the administrative tribunal." (p. 1, Memorandum For The Respondent.)